

Secondary Considerations

The CAFC has said that where present, secondary considerations relating to nonobviousness must be considered. In the case of *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1535, 218 USPQ 871, 876 (Fed. Cir. 1983), the CAFC said:

[E]vidence of secondary considerations may often be the most probative and cogent evidence in the record. It may often establish that an invention appearing to have been obvious in light of the prior art was not. It is to be considered as part of all the evidence, not just when the decisionmaker remains in doubt after reviewing the art.

Stratoflex, 713 F.2d at 1538, 218 USPQ at 879.

Applicant encloses herewith a photocopy of an advertisement showing that competitors are beginning to copy applicant's inventive design, in which a scent-dampening liner is provided in a portable enclosure, to mask the scent of a hunter or naturalist. This ad expressly states, "Sure, other blinds offer scent control...". This statement provides evidence that this competitor is aware of applicant's commercial product and has jumped on the idea of a hunting blind having a scent-dampening liner, after it saw applicant's innovative product.

Copying is further evidence of secondary considerations showing the non-obviousness of applicant's claimed invention.

Conclusion

Applicant respectfully suggests that none of the references of record, considered either singly or in any combination, teach applicant's invention, as presently claimed, and that further, skill generally available in the art would not lead to a person of ordinary skill to create applicant's claimed invention, using the references of record.

Applicant respectfully suggests that as presently amended, all of the pending claims are believed to be allowable.

No new matter has been added by the present amendment.

For all of the above mentioned reasons, applicant requests reconsideration and withdrawal of the rejection of record, and allowance of all the pending claims.

The Commissioner is hereby authorized to charge \$84.00 for two new independent claims in excess of three to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. The Commissioner is further authorized to charge any deficiency, and to credit any over-payment to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. A duplicate copy of this sheet is enclosed. W.B.

Respectfully submitted,



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December 28, 2001

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to Art Unit 3635 at the U.S. Patent and Trademark Office, fax number (703) 305-7687 on December 28, 2001.


Kathryn MacKenzie

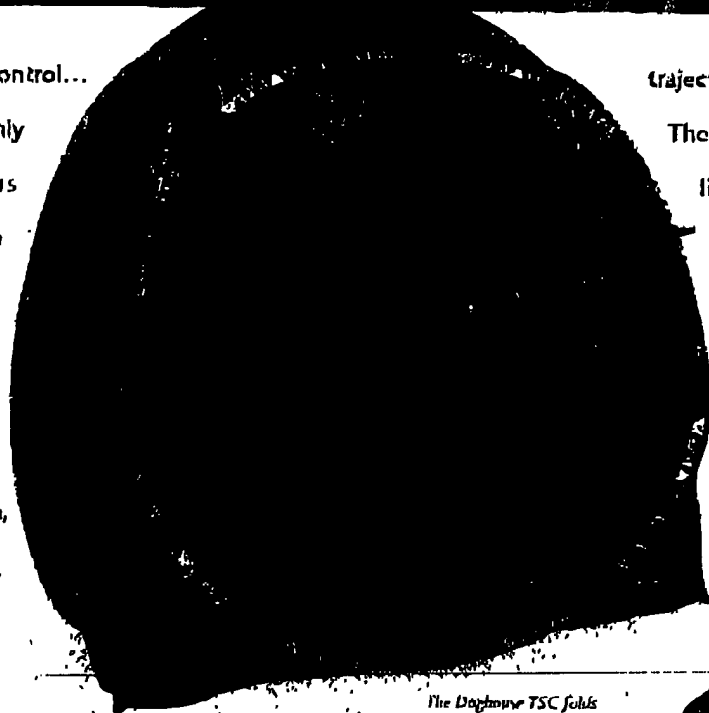
1 ¹⁸~~21~~. (New) A portable enclosure for temporarily concealing a hunter or naturalist,
2 said enclosure comprising:
3 at least one wall section comprising a flexible fabric material;
4 a closable entryway for allowing a user entry into, and egress from said enclosure;
5 and
6 a scent-dampening liner disposed on an interior surface of said at least one wall
7 section.

a
1 ¹⁹~~22~~. (New) A portable enclosure for temporarily concealing a hunter or naturalist,
2 said enclosure comprising:
3 a plurality of interconnected wall sections;
4 a closable entryway for allowing a user entry into, and egress from said enclosure;
5 and
6 a composite scent-dampening sheet disposed on an interior surface of at least one
7 of said wall sections;
8 wherein said scent-dampening sheet comprises:
9 at least one sheet of flexible fabric material, and
10 a scent-dampening material operatively associated with said sheet of
11 flexible fabric.

The new Doghouse TSC from Ameristep.

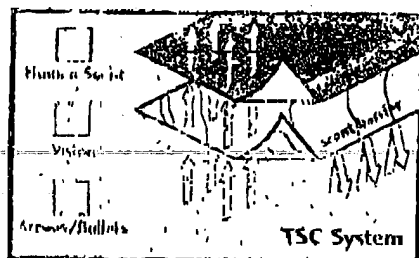
TOTAL CONCEALMENT. TOTAL SCENT CONTAINMENT. TOTALLY IN DEMAND.

Sure, other blinds offer scent control... until you open the windows. Only Ameristep's Doghouse TSC offers Total Scent Containment[®], even with the window flaps open. Each window of the Doghouse TSC blind is covered with a combination of camo mesh fabric and our unique see-through, shoot-through human scent membrane. There is simply no way for a hunter's scent to escape... to alert or spook game.



trajectory or accuracy.

The interior of the Doghouse TSC is lined with black ShadowGuard fabric that totally contains scent and totally conceals any movement within. Hunters can shoot a gun or draw a bow while remaining completely unnoticed from the outside. This year stock the blind that's



[®] Patent Pending

Ameristep's TSC System is comprised of a camo mesh fabric and our exclusive transparent, anti-glare human scent barrier. The hunter's scent is completely contained within the blind and can't escape to the outside.

The Doghouse TSC folds into a compact 2" by 24" backpack weighing only 12 pounds for easy transport. In even the most remote spots... Yule-pops open into a 5 feet square by 6 feet tall blind that can accommodate up to three people.



totally in demand. The Doghouse TSC from Ameristep.



AMERISTEP
QUALITY HUNTING

Ameristep, 701 Lincoln Court, Chgo 60640 Phone (810) 685-4055 Fax (810) 685-7121
www.ameristep.com

Circle 41 on Reader Service Card

The glare-free, transparent scent membrane and camo mesh drape provide complete visibility for hunters in the blind. And they enable arrows to pass through without affecting

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